



Northeast Power Coordinating Council, Inc.

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**Implementation of the
NPCC Compliance Monitoring
and Enforcement Program**

Approved by the NPCC Compliance Committee on February 27, 2008

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Introduction

The Northeast Power Coordinating Council, Inc. (“NPCC”) Compliance Program assesses compliance with the North American Electric Reliability Corporation (“NERC”) Reliability Standards, Regional Standards and NPCC Criteria. The assessment and enforcement processes are different for the NERC Reliability Standards and for the NPCC Criteria. The terminology used herein is as defined by the NERC Rules of Procedure, NERC Glossary of Terms, and NPCC Glossary.

The NERC established the Compliance Monitoring and Enforcement Program (“CMEP”) to be used by NERC and the Regional Entities to monitor, assess, and enforce compliance with the Reliability Standards within the United States.

In the United States, NERC as the Electric Reliability Organization (“ERO”) has delegated its compliance and enforcement authority pursuant with the Energy Policy Act of 2005 (“EPAAct”) to the NPCC in accordance with the approved Regional Delegation Agreement (“RDA”). In addition, the NPCC has or will have agreements with Canadian Provinces to define the implementation of their respective CMEP. Compliance and Enforcement functions may include, but are not limited to, performing compliance audits, data gathering, data reporting, monitoring, investigations, evaluating and determining compliance and non-compliance, imposing penalties and sanctions, and approving and tracking Mitigation Plans.

The imposition or recognition of sanctions, Mitigation Plans or other remedial actions shall not be construed as an acceptable alternative to any Registered Entity's continued obligation to comply with the NERC Reliability Standards, Regional Standards and NPCC Criteria.

The NPCC compliance monitoring and enforcement functions are designed to be executed in a fair and non-discriminatory manner with due process. NPCC Compliance Staff shall make all initial assessments of possible non-compliance and will provide the NPCC Compliance Committee with the results of the investigation if such investigation results in the determination that an alleged violation occurred. The NPCC Compliance Committee shall consider the staff's assessment. Once the assessment is endorsed by the Compliance Committee, the Board of Directors and NERC will be notified. The NPCC Compliance Committee will conduct a hearing if requested by the Registered Entity. The Registered Entity may appeal the Compliance Committee's decision to NERC, as provided for in NERC Rules of Procedure.

1.1 Applicability

This document applies to the NPCC Compliance Staff, the NPCC Compliance Committee and the Processes used to implement the NERC CMEP.

1.2 Organization

NPCC meets the governance requirements of the EPCRA and its staff is independent of any owner, operator, or user of the bulk power system.

1.3 Authority

The NPCC Board of Directors (“Board”) and NPCC Compliance Committee (“CC”) provide policy and procedure oversight of the CMEP. The CC will administer policies and procedures related to the CMEP as delegated by the Board. The NPCC Compliance Staff exercises its authority in carrying out the functions of the RDA in a fair, non-discriminatory manner with reasonable due process for the Registered Entity.

NPCC Compliance Staff has the authority and responsibility for determining compliance status of a Registered Entity, determining the initial sanctions and penalties due to non-compliance with a reliability standard, and issuing Remedial Action Directives, subject to NERC Rules of Procedure requirements.

1.4 Staff Code of Conduct

NPCC Compliance Staff and its independent contractors shall follow the policies prohibiting activities that would cast doubt on and/or compromise the ability of the staff and any contractor of the NPCC to act with total objectivity with regard to the overall interests of its delegated function, the compliance program, and its applicability to those Registered Entities subject to the Reliability Standards.

1.5 Antitrust

NPCC follows the anti-trust guidelines referenced in its Bylaws. In addition, NPCC Compliance Staff, Board, and Committee members shall comply with all applicable state, provincial, and federal antitrust laws.

2 Registration and Identification of Entities

- 2.1** The NPCC Compliance Staff shall register all known owners, operators and users of the bulk-power system responsible for complying with the NERC Reliability Standards and Regional Standards, in accordance with Section 500 of the NERC Rules of Procedure and Provincial Agreements.
- 2.2** To be registered, an owner, operator or user of the bulk-power system must have at least one functional responsibility as defined in a Reliability Standard.

- 2.3** The NPCC Compliance Staff shall develop and maintain a Regional Compliance Registry for use in monitoring, assessing and enforcing Reliability Standards.
- 2.4** The NPCC Compliance Staff shall provide the Regional Compliance Registry to NERC on a periodic basis. NERC will inform each Registered Entity at the time of registration that the Registered Entity is responsible and accountable and will be evaluated via the Compliance Audit Program for compliance with each Reliability Standard that is applicable to the Registered Entity.
- 2.5** The NPCC Compliance Staff will designate a contact person(s) and require each Registered Entity to designate a Primary Compliance Contact (“PCC”) responsible for sending and receiving all necessary information and communications concerning compliance matters

3 Reliability Standards Subject For Compliance Review

The annual CMEP includes monitoring an entity’s compliance to a subset of NERC Reliability Standards and applicable Regional Reliability Standards. This subset of actively monitored reliability standards is determined in conjunction with the other Regional Entities and NERC to ensure uniform compliance monitoring. The NPCC Compliance Committee shall review the annual NPCC CMEP and provide input on the compliance schedule. However, a Registered Entity can be monitored for compliance with any and all applicable and regulatory approved standards at any time via any of the compliance monitoring processes discussed in this document.

4 Compliance Audit Frequency

Compliance audits will be conducted by NPCC Compliance Staff on a three-year cycle for the Balancing Authority (“BA”), Transmission Operator (“TOP”), and Reliability Coordinator (“RC”) functions. Other functions will be audited on a six year cycle. NPCC shall determine the scope and audit schedule. Compliance audits shall be scheduled to accommodate compliance reporting requirements.

5 Compliance Monitoring Processes

NPCC will monitor, assess, and enforce compliance with Reliability Standards using any or all of eight (8) monitoring processes to collect information in order to make assessments of compliance: (1) Compliance Audits, (2) Self-Certifications, (3) Spot Checking, (4) Compliance Violation Investigations, (5) Self-Reporting, (6) Periodic Data Submittals, (7) Exception Reporting, and (8) Complaints. These processes are described in subsequent NPCC Compliance Procedures (CP).

6 Remedial Action Directives

- 6.1** The NPCC Compliance Staff may issue a Remedial Action Directive to a Registered Entity when such action is immediately necessary to protect the reliability of the bulk power system from an imminent threat. A Remedial Action Directive (Directive) may include, but is not limited to, any of the following:
- specifying operating or planning criteria, limits, or limitations;
 - requiring specific system studies;
 - defining operating practices or guidelines;
 - requiring confirmation of data, practices, or procedures through inspection testing or other methods;
 - requiring specific training for personnel;
 - requiring development of specific operating plans;
 - directing a Registered Entity to develop and comply with a mitigation plan to remediate a violation;
 - imposing increased auditing, additional record keeping or additional training requirements;
 - requiring a Registered Entity to cease an activity that may constitute a violation of a Reliability Standard.

A Remedial Action Directive may be issued to a Registered Entity (in the United States and specific Canadian registered entities) at any time, including during any procedures relating to an Alleged Violation of a Reliability Standard. The NPCC Compliance Staff will specify if a remedial action obviates the need for a Mitigation Plan.

Prior to issuing a Remedial Action Directive, NPCC Compliance Staff shall consult with the Reliability Coordinator for the Registered Entity, if applicable, to ensure that the proposed Remedial Action Directive is not in conflict with directives issued by the Reliability Coordinator or approved operating procedures.

Any Remedial Action Directive shall include a deadline for compliance with the Directive and will advise the Registered Entity that failure to comply with the Directive within the required deadline may result in further Remedial Action Directives and/or significantly increased sanctions. NPCC will monitor implementation of Remedial Action Directives as necessary to verify compliance.

- 6.2** The NPCC Compliance Staff will notify NERC and the NPCC Compliance Committee within two (2) business days after issuing a Remedial Action Directive.
- 6.3** The NPCC Compliance Staff will conduct such monitoring activities as are necessary to verify that the Registered Entity complies with the

Remedial Action Directive in accordance with the deadlines specified in the Directive.

- 6.4** The Registered Entity may contest the Remedial Action Directive by giving written notice to the NPCC Compliance Staff within two (2) business days following issuance of the Directive and may request an expedited hearing (CP-07 Hearing Procedure (under development)).

7 Enforcement Actions

7.1 Preliminary Notice of Alleged Violation without Sanctions

If NPCC alleges that a Registered Entity may have violated a Reliability Standard, NPCC shall provide a written Preliminary Notice of Alleged Violation (“PNOAV”) without penalty or sanction to the Registered Entity (CEO or designee and compliance contact) and NERC. The Preliminary Notice of Alleged Violation without sanction shall contain, at a minimum:

- (i) the Reliability Standard and requirement(s) that the Registered Entity has potentially violated;
- (ii) the date and time (when appropriate) the potential violation occurred (or is occurring);
- (iii) the facts NPCC believes demonstrate or constitute the potential violation;
- (iv) any requests for additional information; and
- (v) an option to initiate settlement.

In any violation, a Registered Entity with multiple registrations for the relevant requirement will be limited to a single violation of the requirement.

7.2 Process for Issuance of Notice of Alleged Violation

- (i) NPCC Compliance Staff will conduct a detailed analysis of the potential violation utilizing any additional information gathered as a result of the issuance of the PNOAV. NPCC Compliance Staff may consult with the Compliance Committee and with any other technical committees as necessary to make a final compliance determination.
- (ii) The Compliance Staff will review the Alleged Violation and determine the sanction or penalty.
- (iii) For each Alleged Violation a report demonstrating consistency, fairness and timeliness according to the CMEP processes will be presented to the

NPCC Compliance Committee for its endorsement or rejection by majority vote of the NPCC Compliance Committee.

- (iv) NPCC Compliance Staff will consider the endorsement/rejection by the NPCC Compliance Committee's vote and determine if NPCC Compliance Staff will issue a Notice of Alleged Violation to the Registered Entity.

7.3 Registered Entity Response

7.3.1 If the Registered Entity does not contest or does not respond to the Notice of Alleged Violation within thirty (30) business days, it shall be deemed to have accepted the determination of Alleged Violation and sanction (if applicable), in which case the NPCC Compliance Staff shall issue to the Registered Entity and NERC a final report of Confirmed Violation and Penalty.

7.3.2 If the Registered Entity contests the Alleged Violation or the proposed sanction within thirty (30) business days, the Registered Entity shall submit to the NPCC Assistant Vice-President of Compliance or a designated representative a response explaining its position, signed by an officer, employee, attorney or other authorized representative together with any supporting information.

7.3.3 The NPCC Assistant Vice-President of Compliance or a designated representative shall schedule a conference between the NPCC Compliance Staff and the Registered Entity within ten (10) business days after receipt of the response. The purpose of the conference will be to attempt to resolve the Registered Entity's challenge to the Notice of Alleged Violation and/or Penalties and Sanctions.

7.3.4 If the NPCC Compliance Staff and the Registered Entity are unable to resolve all issues within forty (40) business days after the Registered Entity's response, the Registered Entity may request a hearing.

7.3.5 If a hearing is requested, the NPCC Compliance Staff shall initiate the NPCC Hearing Process, issue a written notice of hearing, and identify the NPCC Compliance Staff's designated hearing representative. The written notice will be sent to the Registered Entity, the NPCC Compliance Committee, the NPCC Board and the Hearing Officer. See CP-07: Hearing Procedure (under development).

7.4 NERC Appeal Process

If a Registered Entity has completed the NPCC Hearing Process and they remain unsatisfied with the results, the Registered Entity has the option of proceeding with an appeal to NERC. See NERC CMEP Appeals Process.

8 Mitigation of Alleged Violations of NERC Reliability Standards

A Registered Entity who agrees that an Alleged Violation has occurred shall file with the NPCC Compliance Staff either (i) a proposed Mitigation Plan to correct the Alleged Violation; or (ii) a description of how the Alleged Violation has been mitigated.

8.1 Requirement for Submission of Mitigation Plan

A Mitigation Plan is required for every Alleged Violation or Confirmed Violation of a NERC Reliability Standard or Regional Standard, regardless of how the Alleged Violation or Confirmed Violation was discovered. However, if the Alleged Violation or Sanction is contested by the Registered Entity, the Registered Entity can delay submittal of the Mitigation Plan until the Hearing Process or Appeal Process is completed.

8.2 Timetable for Completion of Mitigation Plans

- 8.2.1** The Mitigation Plan shall be completed in time to have a reasonable potential to correct all of the violation(s) prior to the next applicable compliance reporting/assessment period after occurrence of the violation for which the Mitigation Plan is submitted. In all cases the Mitigation Plan should be completed without delay. NPCC Compliance Staff will expect full compliance with the Reliability Standard to which the Mitigation Plan is applicable at the next report or assessment of the Registered Entity. At NPCC Compliance Staff's discretion, the completion deadline may be extended for good cause including: (i) short assessment periods (i.e., event driven or monthly assessments), and (ii) construction requirements in the Mitigation Plan that extend beyond the next assessment period or (iii) other defined and accepted extenuating circumstances.
- 8.2.2** If the Mitigation Plan extends beyond the next applicable reporting/assessment period, sanctions for any violation occurring during the implementation period will be held in abeyance and will be waived if the Mitigation Plan is satisfactorily completed.
- 8.2.3** Any violations assessed during the period of time the accepted Mitigation Plan is being implemented will be recorded by the Compliance Enforcement Authority with associated sanctions or penalties. Regional Entities will report any findings of violations recorded during this time period to NERC with the notation that the Registered Entity is working under an accepted Mitigation Plan with an extended completion date with penalties and sanctions held in abeyance until completion of the Mitigation Plan. Upon completion of the accepted Mitigation Plan in accordance with Section 84, NPCC Compliance Staff will notify the Registered Entity that any findings of violations of the applicable Reliability Standard during the period that the accepted Mitigation Plan was being implemented have been waived and no penalties or sanctions will apply. Regional Entities

will also notify NERC of any such waivers of violations of Reliability Standards.

- 8.2.4** A request for an extension of any milestone or the completion date of the accepted Mitigation Plan by a Registered Entity must be received by NPCC Compliance Staff at least five (5) business days before the original milestone or completion date. NPCC Compliance Staff may accept a request for an extension or modification of a Mitigation Plan if NPCC Compliance Staff determines the request is justified, and shall notify NERC of the extension or modification within five (5) business days.

8.3 Review and Approval of Proposed Mitigation Plans

Mitigation Plans within the NPCC are submitted via the Compliance Data Administration Application (CDAA) and must provide an explanation and description of the reason(s) for non-compliance.

- 8.3.1** The NPCC Compliance Staff will complete its review of the Mitigation Plan and will issue a written statement approving or disapproving the Mitigation Plan within thirty (30) business days of receipt; otherwise the Mitigation Plan will be deemed approved.
- 8.3.2** If the NPCC Compliance Staff disapproves a Mitigation Plan, the NPCC Compliance Staff will provide the Registered Entity with a written statement describing the reasons for disapproval, and will require the Registered Entity to submit a revised Mitigation Plan.
- 8.3.3** Upon receipt of the revised Mitigation Plan, the NPCC Compliance Staff will notify the Registered Entity within ten (10) business days of receipt of a revised Mitigation Plan, whether the NPCC Compliance Staff will approve the revised Mitigation Plan, or disapprove it and provide a written statement describing the reasons for disapproval. If the second review results in disapproval of the Mitigation Plan, the Registered Entity may request a hearing in accordance with the NPCC Hearing Process (CP-07 (under development)).
- 8.3.4** The NPCC Compliance Staff will notify NERC within five (5) business days of the acceptance of a Mitigation Plan.

8.4 Completion/Confirmation of Implementation of Mitigation Plans

- 8.4.1** The Registered Entity will update the NPCC Compliance Staff on the progress of the Mitigation Plan based on the quarterly milestone/events as stated in the Mitigation Plan. The NPCC Compliance Staff will track the Mitigation Plan to completion and

may conduct on-site visits and use status reviews during audits to monitor Mitigation Plan implementation. A failure to respond to requests for tracking information will be treated as a Non-submittal of Requested Data. NPCC Compliance Staff will execute the steps described in the Process for Non-submittal of Requested Data.

- 8.4.2** Upon completion of the Mitigation Plan, the Registered Entity shall provide to the NPCC Compliance Staff the appropriate self-certification, signed by the Registered Entity's officer responsible for the Mitigation Plan that all the required actions described in the Mitigation Plan have been completed and shall include data or information sufficient for the NPCC Compliance Staff to verify completion. The NPCC Compliance Staff may request such data or information and conduct follow-up assessments, spot checks, or compliance audits as it deems necessary to verify that all required actions in the Mitigation Plan have been completed and the Registered Entity is in compliance with the subject Reliability Standard.
- 8.4.3** In the event all required actions in the Mitigation Plan are not completed within the applicable time frame, including extensions, any alleged violation(s) of a Reliability Standard subject to the Mitigation Plan that occurred during the originally-scheduled time period for completion will be enforced immediately and a new Mitigation Plan must be submitted to and approved by the NPCC Compliance Staff. In addition, the NPCC Compliance Staff may (i) conduct a compliance audit of the Registered Entity, or (ii) issue a Remedial Action Directive to, the Registered Entity.
- 8.4.4** NPCC Compliance Staff will provide to NERC with (i) quarterly status reports and such other information as NERC requests, and (ii) will notify NERC when each Mitigation Plan is verified to have been completed.

8.5 Recordkeeping

The NPCC Compliance Staff uses the CDAA for documenting the Registered Entity Mitigation Plan, data, and report submittal.

The NPCC Compliance Staff will maintain a record containing the following information for each Mitigation Plan:

- Name of Registered Entity.
- The date of the Alleged Violation.
- Monitoring method by which the Alleged Violation was detected, i.e. self-certification, self reported, audit, investigation, complaint, etc.
- Date of notification of Alleged Violation and Sanction or Penalty.

- Expected and actual completion date of the Mitigation Plan.
- Expected and actual completion date for each required action.
- Approved changes to milestones, completion dates, or scope of Mitigation Plan.

9 Reporting and Disclosure

- 9.1** The NPCC Compliance Staff shall prepare and submit to NERC all required reports (including those required by NERC Rules of Procedure Sections 403.14, 403.18 and 403.19 containing current information concerning (1) Registered Entity compliance with Reliability Standards, (2) all Alleged and Confirmed Violations of Reliability Standards by Registered Entities, (3) the status of Alleged Violations, (4) Sanctions and Penalties, (5) remedial actions imposed, and (6) Mitigation Plan(s) approved including dates for all required actions and for completion.
- 9.2** The NPCC Compliance Staff shall report to NERC the status of Alleged Violations of Reliability Standards, regardless of significance, that have not yet resulted in a final determination of an Alleged Violation or have not completed the Hearing Process, or for which mitigation activities (including activities being carried out pursuant to a settlement) have not been completed. The NPCC Compliance Staff shall report if the Registered Entity has contested the Alleged Violation and the status of the Hearing Process. The reports shall include, at a minimum: the identity of the Registered Entity alleged to be or found in Alleged Violation of a Reliability Standard; the relative seriousness of the Alleged Violation; the status of confirmation of the Alleged Violation; and the status of any Mitigation Plan activities. The NPCC Compliance Staff will ensure the information is current when these reports are provided.
- 9.3** The NPCC Compliance Staff shall report to NERC all alleged violations of Reliability Standards by Registered Entities including all penalties, sanctions, Mitigation Plans and schedules, and settlements.
- 9.4** The NPCC Compliance Staff will provide the report to each Registered Entity identified with an Alleged Violation of a Reliability Standard at least ten (10) business days prior to the date the report is to be published by NERC, accompanied by a notice that the Registered Entity may provide a statement to NERC to accompany the report when posted by NERC. The Registered Entity's statement must be on company letterhead and include the name, title and signature of an officer of the Registered Entity.
- 9.5** The NPCC Compliance Staff shall prepare the appropriate NERC report (monthly, quarterly, and annual) documenting compliance and non-compliance of Registered Entities with determination of sanctions and penalties imposed, along with the Registered Entity indication of non-compliance to a Reliability Standard(s) with the Mitigation Plan(s) including scheduled progress benchmark dates and scheduled completion

date(s). The Mitigation Plans will be provided to NERC by the NPCC Compliance Staff as requested.

- 9.6** The NPCC Compliance Staff shall provide confidential notice to NERC within prescribed time parameters of reported or other Alleged Violations of Reliability Standards. Such reports shall include information regarding the nature and potential reliability impact of the Alleged Violation, the Registered Entity involved, and the status and timetable of any investigation.
- 9.7** After due process and proper notices, violations and the accompanying enforcement actions will become public when filed with FERC or provincial authorities by NERC and posted on the NERC and NPCC websites. Each bulk power system owner, operator, or user may provide NERC with a statement to accompany the violation that is to be posted publicly. The statement must be on company letterhead and include a signature, as well as the name and title of the person submitting the information.

10 Data Retention and Confidentiality

- 10.1** Confidential information is defined in the NPCC CMEP Confidentiality Agreement for NPCC Compliance Staff, Registered Entities (referred to as recipients in the Confidentiality Agreement), and NPCC Compliance Committee members representing Registered Entities (recipients).
- 10.2** The Registered Entity shall comply with the confidentiality provisions applicable to NPCC as set forth in the NPCC Confidentiality Agreement and must sign the NPCC Confidentiality Agreement before gaining access to any confidential information. Certain information is considered confidential and protected from disclosure in any public format since it meets the NERC guidelines for protecting sensitive information in the electrical sector.
- 10.3** NPCC Compliance Staff and NPCC Compliance Committee members must follow NERC's and NPCC's policies and procedures related to confidentiality. Information deemed by a Bulk Power System user, owner, operator, Registered Entity, Regional Entity or NERC as critical energy infrastructure information (*NERC Security Guidelines for the Electricity Sector — Protecting Potentially Sensitive Information* may be used as a guide) shall be redacted according to NERC procedures and not be released publicly.

10.3.1 Protection of Confidential Information

The NPCC personnel (including any contractors, consultants and industry volunteers) and NPCC Compliance Committee members, and participants in Compliance Program activities shall be informed of, and agree to

comply with, Section 1500 of the NERC Rules of Procedure concerning Confidential Information.

10.3.2 Critical Energy Infrastructure Information (“CEII”)

The NPCC Compliance Staff will keep confidential all Critical Energy Infrastructure Information in accordance with Section 1500 of the NERC Rules of Procedures. Information deemed to be critical energy infrastructure information shall be redacted and shall not be released publicly.

10.4 Functional Separation

In the event where NPCC Compliance Staff performs functions not identified in the RDA, NPCC Compliance Staff will maintain a segregation of responsibilities to remove any possible conflict of interest. NPCC Compliance Staff or its designated contractors will act with total objectivity with regard to the overall interests of its delegated functions, including the CMEP.